

ICGS 18 MONTH REVIEW

TERMS OF REFERENCE

Purpose

1. The review will assess whether the Independent Complaints and Grievance Scheme (“the scheme”) delivers a fair, thorough and consistent process for addressing bullying, harassment and sexual misconduct that has the confidence of the Parliamentary community.
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2. In assessing this, the review will examine and, where appropriate, make recommendations regarding:
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- a. The effectiveness and impact of the scheme;
- b. Policy changes to the scheme, including changes to the scheme’s governance;
- c. The processes of the scheme and their operation; and
- d. Any other matters the reviewer considers relevant.

3. The review will not:

- a. Consider the sanctions available under the scheme and their implementation;
- b. Consider matters falling within the remit of the work of the Independent Expert Panel, the Conduct Committee, the House of Lords Commissioner for Standards, the House of Commons Committee on Standards and the Parliamentary Commissioner for Standards. But the reviewer may consult these groups as part of the review; or
- c. Reopen or re-examine individual cases. However, the reviewer will be able to invite these stakeholders to provide their views of the scheme.

Effectiveness and Impact

4. The review will assess the effectiveness and impact of the scheme, including:

- a. Awareness and experience of the scheme across the Parliamentary community;
- b. The impact and effectiveness of training related to the scheme;
- c. The consistency and approach as between the two Houses of Parliament;
- d. The extent to which diversity and inclusion is embedded in the scheme; and
- e. The resources available to the scheme.

Policy Changes and Governance

5. The review will consider, and make recommendations, regarding:

- a. Whether complaints from third parties should be considered; and, if so, the appropriate mechanism for this;
- b. Whether and how cluster reporting should be introduced;
- c. Whether a limitation period for historic cases is appropriate; and

- d. The consistency of the approach of each House to complaints made by those outside the Parliamentary community, and whether these should be aligned.

6. The review will consider the governance of the scheme and, in particular, the mechanism for changes to be made to the scheme and for the ongoing review (including against the matters in paragraph 229 of the Cox Report – see Annex B).

Process and Operation

7. The review shall assess the processes and operation of the scheme, in particular:
 - a. Barriers to the progress of investigations;
 - b. The operation of the new helpline and new independent investigators (due to be appointed in September);
 - c. Routes by which all respondents and complainants may challenge findings;
 - d. Whether the initial assessment stage should operate as an eligibility check only;
 - e. The effectiveness of informal resolution mechanisms;
 - f. Support available to complainants, respondents and other users of the scheme;
 - g. Whether any changes are required to the wording of bullying and harassment and sexual misconduct policies;
 - h. Whether any further changes are needed to ensure that complaints resolved in other fora cannot be re-opened using the scheme; and
 - i. Information sharing between the investigators, the ICGS team, and each Administration; and
 - j. How cases are allocated to independent investigators.

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8. The review will, subject to paragraph (3) above, consider, insofar as they remain relevant and are not covered by the above, the recommendations from the six-month review of the scheme and any recommendations specific to the scheme's operation from the Cox, White and Ellenbogen reports (see Annex A).

Methodology

9. The reviewer will:

- a. Consider relevant qualitative and quantitative data; and
- b. Consult investigators, the political leadership and office holders and officials responsible for the strategic approach to the scheme, and those involved in the day-to-day operation of the scheme

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10. The reviewer will engage with and invite submissions from complainants, respondents, and the wider Parliamentary community. In doing so, the reviewer should bear in mind the importance of ensuring a range and balance of views and consider how best to balance the views of, and submissions from, complainants and respondents.
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- a. Such submissions will be treated in confidence and handled in accordance with the Houses' data protection and record keeping policies; and
- b. Whilst such submissions may be referenced in the report, no individual will be identified or identifiable, and care taken to avoid 'jigsaw' identification.

11. The report arising from the review will be published within four months of the review being established.

12. Further matters on the conduct of the review will be set out in a memorandum of understanding between the Corporate Officers for each House, and the reviewer.

Annex A: Outstanding recommendations specific to the operation of the ICGS made by the Cox inquiry and the Ellenbogen and White reviews

Cox

- Provision for an internal participatory reparative process for those unable to pursue past complaints.
- Revised definitions and wording in the new Scheme, changes to the right to representation, confidentiality and to recognise the concept of gendered bullying.
- Clearer delineation of ownership and responsibility under the new Scheme.
- Complainants should not have the right unilaterally to withdraw their complaint in all circumstances.
- Comprehensive training programmes and promotional work to maintain the importance of the new Scheme and the Behaviour Code; mandatory, targeted training for everyone on bullying and harassment and sexual harassment.
- Properly resourced support services.

- Maintaining accurate records of complaints and decisions made.

White

- Produce clear procedural documents, to include Members' role in appeals.

Ellenbogen

- Provision should be made for 'cluster reporting'.

Annex B: Dame Laura Cox Report, paragraph 229

Any policy tackling bullying, harassment and sexual harassment needs to have:

- an acknowledgment at its head that these forms of behaviour are problems for the House;
- a clear statement at the head that such behaviour is unlawful and will not be tolerated;
- a clear statement of commitment at the head from the senior management;
- detailed examples of the different forms of unacceptable behaviour, and a statement that bullying and harassment by staff may be treated as disciplinary offences and when such proceedings may ensue;
- the pro-active steps that the House intends to take to prevent bullying and harassment, with the responsibilities of named senior managers, managers and supervisors identified, and training programmes described, with the requirement and expectation that these are to be attended by everyone;
- assurances as to the confidentiality of reports and formal complaints and how that will be maintained;
- the various support and counselling mechanisms available with contact details clearly visible and clearly described;
- the timescales for complaints procedures clearly identified;
- the nature of report logs and record keeping explained;
- a commitment to the investigations of complaints being carried out by independent and impartial investigators with specialist expertise, in proceedings which are fair to both sides and completed within a reasonable time frame;
- a range of effective sanctions available, and published, for cases where the complaint is upheld; and
- clear information on how, when and by whom the policy is to be implemented, reviewed and monitored.

SCHEDULE 2

MEMORANDUM OF UNDERSTANDING

Purpose

To set out the expectations for the review and the resourcing that the reviewer will be allocated. The Memorandum of Understanding has been agreed between the reviewer and the Clerks of both Houses.

Expectations

Role of the reviewer

1. The reviewer's role is to provide recommendations in order to best improve the operation of the Independent Complaints and Grievance Scheme for its users; ultimately aiding culture change in Parliament.
2. The reviewer will be candid about any failings or issues with the scheme.

Conduct of the Review

3. The process of the review will be collaborative, and the reviewer will engage openly with those involved in the scheme to ensure that conclusions take into account the full context of the scheme in each House, and those involved in the scheme will provide relevant fact checking.
4. The reviewer will engage with both Houses equally to reflect the bicameral nature of the scheme and respect their exclusive cognisance.
5. The reviewer will liaise with the Cultural Transformation Steering Group (House of Commons) and the Steering Group for Change (House of Lords) and take into account their work in the findings and recommendations of their review. The reviewer will also invite views from the Commissioners, and the Conduct Committee and Committee on Standards.
6. The reviewer will also consult members of both Houses and staff representatives. Staff representation will include Human Resources, legal, the cultural transformation teams, trade unions and Member and Peers' Staff Association (MAPSA).
7. Those involved in the operation of the scheme will be open with the reviewer, including by assisting the conduct of their review by promptly providing quantitative and qualitative data required (whilst ensuring

individuals cannot be identified), and being forthcoming with their views of any issues with the operation of the scheme. All contributions will be treated in strict confidence and will not be published or liable to release. All contributions will be treated in strict confidence, and any references to information or feedback will be anonymised.

8. The reviewer will undertake equality analyses as appropriate in the course of the review, including on the terms of reference of the review and the work plan for engagement and evidence-gathering; on the current scheme; and on the proposed recommendations.

The Report

9. The reviewer should draft and publish a final report, capturing all of their recommendations, by the end of the review period of four months. Prior to the publication the reviewer should provide the Commissions and House Authorities with updates as appropriate.
10. The Clerk of the Parliaments, the Clerk of the House and House of Commons and House of Lords Commissions will have prior sight of the final report 7 days before publication.

Resourcing

11. The reviewer will be provided with secretariat and other support, as determined by the House Authorities in the House of Commons and the House of Lords in consultation with the reviewer.